

DTRA SUMMARY RESPONSE TO
REPRESENTATIVE BLUMENAUER CONGRESSIONAL INQUIRY
ON CONTRACTOR INDEMNIFICATION

1. A list of contractors that have been granted indemnification under PL 85-80[4], from all procuring activities as defined by 49 CRF 2.101, under the authority of the DoD, as well as list of lawsuits filed as a result of contractor actions and the amount of taxpayer money the Federal Government has paid out as a result of indemnity agreements with the contractors.

Answer: DTRA contract DTRA01-03-D-0013, Task Order 0011, with Raytheon Technical Services Company LLC (RTSC), was granted approval of indemnification on September 9, 2003, for unusually hazardous or nuclear risks while performing in Iraq. This authority was granted under Public Law 85-804 and Executive Order 10789. The indemnification approval provided to RTSC included any follow-on effort and deemed indemnification of subcontractors appropriate. Further, no lawsuits were filed as a result of contractor actions either from RTSC or its subcontractors, nor was any U.S. taxpayer money paid out as a result of the indemnity agreement. No follow-on effort was executed following completion of Task Order 0011.

2. A list of contracts that have been entered into under the authority of the Defense Appropriations Act since 200[3] – Public Law 108-87, section 8091 (b). (all congressional language from 2004 to current also uploaded). Rep. Blumenauer is also asking for written justification of the need for this authority including, but not limited to, any legal opinions provided in support for this request, as well as a description of this authority use since 2003.

Answer: There have been no DTRA contracts that have been granted indemnification under the authority of the Defense Appropriations Act (Public Law 108-87, section 8091 (b)) since 2003.

3. Please see the attached supporting document.



ACQUISITION,
TECHNOLOGY
AND LOGISTICS

THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3010

September 9, 2003

MEMORANDUM FOR DIRECTOR, DEFENSE PROCUREMENT AND ACQUISITION POLICY

SUBJECT: Authority Under Public Law 85-804 to Include an Indemnification
Clause in Contract Number DTRA01-01-D-0013 with Raytheon
Technical Services Company

Raytheon Technical Services Company (RTSC), a wholly owned subsidiary of the Raytheon Company, located at 12160 Sunrise Valley Drive, Reston, Virginia 20191, requested indemnification under Public Law 85-804 for Contract Number DTRA01-01-D-0013, awarded by the Defense Threat Reduction Agency (DTRA). Under Task Order 0011 with a performance period of six months, RTSC will be required to provide technical experts to identify, characterize and store chemical, biological, radiological, nuclear and high explosive sources discovered in the Iraqi theater of operations. A follow-on task order for identical work will increase RTSC's performance period an additional four months. These activities may expose RTSC to unusually hazardous or nuclear risks for which adequate insurance is not commercially available at a reasonable cost. DTRA concurs with the RTSC indemnification request.

RTSC and DTRA agreed on the following definition of unusually hazardous or nuclear risks involved in this indemnification:

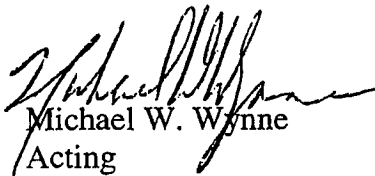
The term "risk defined in this Contract as unusually hazardous or nuclear" means the exposure of third parties to 1) chemical, biological, radiological, or nuclear weapons; 2) chemical and biological warfare agents or materials; or 3) radiological materials. Exposure must result from the performance of work under this contract in Iraq.

I find that the action authorized herein will facilitate national defense. The characterization, transport and storage of Iraqi weapons of mass destruction and related agents or materials are crucial to the accomplishment of the mission in Iraq.



Pursuant to the authority vested in me by Public 85-804 and Executive Order 10789, I hereby authorize the inclusion of FAR clause 52.250-1 in the subject contract for the risks identified above for accomplishment of Task Order 0011 and the follow-on task order. Indemnification of subcontractors performing under the subject task orders is also deemed appropriate. The contractual documents executed pursuant to this authorization shall comply with the requirements of Federal Acquisition Regulation (FAR) 50.307.

The point of contact for this matter is Lieutenant Colonel Vince Feck, (703) 695-8567 or e-mail Vincent.Feck@osd.mil.



Michael W. Wynne
Acting

cc:

Assistant to the Secretary of Defense (Nuclear and
Chemical and Biological Defense Programs
Director, Defense Threat Reduction Agency

Data Call for reply to Representative Blumenauer

Granted Indemnification in accordance with Public Law 85-804 since 2005

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